



# OHIO JUSTICE & POLICY CENTER

RECLAIMING LIVES • RENEWING COMMUNITIES • RESTORING JUSTICE

215 EAST 9TH STREET SUITE 601  
CINCINNATI, OHIO 45202  
(T) 513-421-1108  
(F) 513-562-3200  
CONTACT@OHIOJPC.ORG  
WWW.OHIOJPC.ORG

## EXECUTIVE DIRECTOR

DAVID SINGLETON  
*Attorney at Law*

## BOARD

JUDGE MARK PAINTER  
*Chair*

JOSEPH TOMAIN  
*Vice-Chair*

SUSAN WHEATLEY  
*Secretary*

DAN FALES  
*Treasurer*

EILEEN COOPER-REED  
MATT HEEMAN

SISTER RUTH KUHN, S.C.  
PETER LEVIN

DAN MEYER  
REV. JAMES METZGER

JANAYA TROTTER BRATTON

## FOUNDER

ALPHONSE GERHARDSTEIN

### To: Ohio House Criminal Justice Committee

|                                    |                     |                      |
|------------------------------------|---------------------|----------------------|
| Chair Nathan H. Manning            | Rep. Jim Butler     | Rep. Laura Lanese    |
| Vice Chair Jeffery S. Rezabek      | Rep. Robert R. Cupp | Rep. Robert McColley |
| Ranking Member Nicholas Celebrezze | Rep. Tavia Galonski | Rep. Dorothy Pelanda |
| Rep. Bernadine Kennedy Kent        | Rep. Bill Seitz     | Rep. John M. Rogers  |

**From: Sasha Naiman, Deputy Director, Ohio Justice & Policy Center**

**Date: September 19, 2017**

**Re: In Support of S.B. 4**

Greetings Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the House Criminal Justice Committee. I urge you to pass S.B. 4. This bill empowers survivors of sex trafficking with meaningful opportunities to achieve **recovery, gainful employment, stable housing, and community reintegration.**

I submit this testimony on behalf of the Ohio Justice & Policy Center, a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems. OJPC has represented multiple victims of human trafficking in filing successful expungement applications under R.C. 2953.38 (Safe Harbor expungement). OJPC also conducts trainings statewide about expungement for trafficking-survivors.

### SEX TRAFFICKING IN OHIO AND AMBIGUITY IN R.C. 2953.38

Human trafficking in Ohio is a fast growing and highly underreported form of modern day slavery. Victims – usually women and children – are compelled to commit crimes, like prostitution, theft, and drug-sales, for traffickers’ financial gain. The trauma and abuse they suffer is horrific. They are beaten, drugged, and raped. When survivors break free, their criminal records create serious barriers to employment, housing, education, family reunification, and recovery.

In 2012, the Ohio Legislature created a process to erase convictions resulting from sex trafficking (Safe Harbor Act, H.B. 262, codified in R.C. 2953.38), but courts disagree on how broadly to apply this statute. When a pimp coaches a young woman to lie to police, injects her with heroine, beats her with a board for disobeying, and forces her to sell her body in strangers’ cars, do we only remove the soliciting conviction? Do we leave behind dozens of records for obstruction, public indecency, and drug paraphernalia? These records will prevent the victim from finding a safe apartment and having a career. She will have to explain these records for each job interview and college application, again and again, feeling ashamed and traumatized in front of strangers.

The current language of R.C. 2953.38 is ambiguous. In many jurisdictions, the expungement statute is interpreted broadly, so survivors can totally clear their criminal records and get a true second chance at life. Unfortunately, some courts and prosecutors may think that expungement is available *only* for convictions of prostitution, loitering to solicit, and solicitation. So, some survivors can never reclaim their lives because they were trafficked in a jurisdiction with a narrow interpretation of expungement law. For them, only a few offenses can be expunged; these survivors are left with dozens of records that create the very barriers that the Safe Harbor law was meant to erase. The members of the House Criminal Justice Committee can make this right by passing S.B. 4.

#### **SB. 4 ALLOWS OHIOANS TO RESTORE JUSTICE AND RECLAIM THEIR LIVES**

While the 2012 expungement provision aimed to remove criminal-records-based barriers for survivors, **S.B. 4 is necessary** to truly achieve this goal. It is important to note: there is one other type of “true expungement” in Ohio law, which also removes records based on the important context of an offense and the mental state of the offender. That is juvenile records expungement. Quite similarly, S.B. 4 allows survivors to apply to expunge any criminal convictions, besides aggravated murder, murder, and rape. (This legal-consistency is great.) Under S.B. 4, the applicant has to show that her participation in the offense was a result of being a victim of human trafficking, and then, she has to show that her interest in the expungement is greater than the government’s interest in keeping the record. S.B. 4 resolves ambiguity in the law, restores justice for survivors of sex trafficking, and allows survivors a fair chance to reclaim their lives.

#### **ONE SMALL, SIMPLE CORRECTION**

I want to point out just one slight wording issue, with an easy fix. S.B. 4, at line 320, discusses the “degree of duress” that a survivor faces. The line should say “degree of force, fear, duress, intimidation, or fraud”, to mirror R.C. 2905.32 Trafficking in Person (which explains that the key element of trafficking is “established if the state proves that the victim’s will was overcome by force, fear, duress, intimidation, or fraud”). This is a small but important change for consistency and clarity, from a legal perspective. Please, correct this wording, to avoid unintended confusion and problems in the courts.

#### **CONCLUSION**

S.B. 4 presents a simple and convenient remedy to the ambiguity in the expungement law. Essentially, S.B. 4 empowers trafficking survivors to remove the shackles forged by their traffickers – truly eliminating the criminal records that resulted from the trafficking situation. The bill clears up any past ambiguities and creates one of the strongest forms of redemption that has ever existed for survivors of sex trafficking in Ohio. OJPC urges each of you to vote for S.B. 4.

Sasha Naiman, Deputy Director  
Ohio Justice & Policy Center  
215 E. 9th St, Suite 601, Cincinnati, OH 45242  
[snaiman@ohiojpc.org](mailto:snaiman@ohiojpc.org) | (513) 421-1108 X 20